

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 301 Calendar**

Wednesday, January 12, 2022

Hearing Room 301

11:00 AM

6:14-16813 M. A. Tabor

Chapter 7

#1.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

[Tele. appr. Anthony Friedman, rep. Trustee]

Docket 96

Tentative Ruling:

APPEARANCES REQUIRED.

Party Information

Debtor(s):

M. A. Tabor

Represented By
Judith Runyon

Trustee(s):

Todd A. Frealy (TR)

Represented By
Anthony A. Friedman
Lindsey L Smith
Carmela Pagay

**United States Bankruptcy Court
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6:16-20298 Donald Sutcliffe

Chapter 7

#2.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

[Tele. appr. John Pringle, chapter 7 trustee]

[Tele. appr. Tinho Mang, rep. Debtor]

Docket 204

Tentative Ruling:

1/12/2021

Service: Proper

Opposition: None

The application for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. The Court requires clarification of the following:

- 1) Paragraph 9 of the sale order entered on May 19, 2020 as docket number 99 requires the Trustee to hold proceeds pending resolution of, among other things, "Debtor's claimed homestead exemption." The Court is not aware of any resolution of this issue and it is not clear that Debtor's exemption is not valid under § 522(g)-(i).
- 2) The amount used for the calculation of the Trustee's commission is less than clear. The final page of the Trustee's declaration identifies compensable disbursements of \$950,000. Page 13 of the Trustee's final report, however, identifies "[t]otal compensable receipts" of \$604,777.92 and "total compensable disbursements" of \$794,628.42

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Donald Sutcliffe

Pro Se

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Trustee(s):

John P Pringle (TR)

Represented By
D Edward Hays
David Wood
Tinho Mang

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11:00 AM

6:20-15860 Christopher Bachman and Angelica Bachman

Chapter 7

#3.00 Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) - Trustees Motion for an Order (1) Approving the Sale of Real Property Free and Clear of All Claims, Liens, Encumbrances, and Interests Under 11 U.S.C. § 363(b) and (f); (2) Approving The Proposed Overbid Procedure; (3) Authorizing Payments from Sale Proceeds; and (4) Determining 11 U.S.C. § 363(m) Protection; Memorandum of Points and Authorities; Declarations of Karl T. Anderson, Barbara Dunn, Richard A. Halderman, Jr. And Jennifer Chen In Support Thereof (Motion filed 12/22/21)

EH__

[Tele. appr. Richard Halderman Jr. rep. Karl Andereson]

[Tele. appr. Barbara Dunn. rep. Libby's Realty - LISTEN ONLY]

[Tele. appr. Maria Garcia, rep. chapter 7 trustee]

Docket 43

Tentative Ruling:

1/12/2022

BACKGROUND

On August 28, 2020, Christopher & Angelica Bachman ("Debtors") filed a Chapter 7 voluntary petition. Schedule A listed certain vacant land with an APN of 671-180-029 (the "Property"). Schedule A identified the value of the Property as \$10,000. Debtors did not claim an exemption in the Property. Schedule D did not list any creditors holding a security interest in the Property. On December 7, 2020, Debtors received a discharge.

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Chapter 7

On October 1, 2021, the Court approved Trustee's application to employ a real estate broker. On December 22, 2021, Trustee filed the instant sale motion. Trustee proposes to sell the property to Bonaventure Fund I, LLC (the "Purchaser") for \$28,500. Proposed payments from the proceeds include: (1) \$544.42 for property taxes; (2) \$2,850 for the broker's commission; (3) \$350 fee to Richard Halderman¹; and (4) \$1,610.89 for costs of sale, leaving \$23,144.69 in net proceeds for the bankruptcy estate.

DISCUSSION

I. Sale of Estate Property

11 U.S.C. § 363(b)(1) allows a trustee to sell property of the estate outside of the ordinary course, after notice and a hearing. A sale pursuant to § 363(b) requires a demonstration that the sale has a valid business justification. *In re 240 North Brand Partners, Ltd.*, 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996). "In approving any sale outside the ordinary course of business, the court must not only articulate a sufficient business reason for the sale, it must further find it is in the best interest of the estate, i.e. it is fair and reasonable, that it has been given adequate marketing, that it has been negotiated and proposed in good faith, that the purchaser is proceeding in good faith, and that it is an "arms-length" transaction." *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal.).

The motion contains some evidence of the Property's marketing, which the Court deems sufficient to establish the reasonableness of the sale. Specifically, the Court notes that the declaration of Trustee's broker attests that the Property was listed on the CRMLS on September 27, 2021, that ten inquiries were made regarding the Property, and that seven prospective purchasers were showed the Property.

II. Sale Free & Clear of Liens

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Chapter 7

11 U.S.C. § 363(f) states:

(f) The trustee may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if-

(1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;

(2) such entity consents;

(3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;

(4) such interest is in bona fide dispute; or

(5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

Here, the only liens on the Property appear to be relatively insignificant tax liens, the sale price exceeds the aggregate value of the liens encumbering the Property and, therefore, § 363(f)(3) permits Trustee to sell the Property free and clear of liens.

III. Good Faith Finding

11 U.S.C. § 363(m) provides that:

The reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such

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Christopher Bachman and Angelica Bachman

Chapter 7

entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal.

Here, Trustee has submitted a declaration of Purchaser's managing member, and the Court having reviewed the declaration, finds that it is sufficient to make a § 363(m) good faith finding.

IV. 14-Day Stay

FED. R. BANKR. P. Rule 6004(h) states: "An order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." The Court deems the absence of objections to be consent to the relief requested, pursuant to Local Rule 9013-(1)(h), and, therefore, will waive the stay of Rule 6004(h).

V. Miscellaneous Provisions

The Court has reviewed the remainder of Trustee's miscellaneous requests. The Court has reviewed the proposed overbidding procedures and finds such procedures to be reasonable.

The Court has reviewed the requested broker compensation and finds the 10% commission to Barbara Dunn (to be shared with buyer's broker) and the \$350 advisory fee to Richard Halderman to be reasonable and appropriate in this case.

TENTATIVE RULING

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Chapter 7

The Court is inclined to GRANT the motion in its entirety subject to any overbids being received.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Christopher Bachman

Represented By
Christopher Hewitt

Joint Debtor(s):

Angelica Bachman

Represented By
Christopher Hewitt

Trustee(s):

Karl T Anderson (TR)

Represented By
Amy L Goldman
Maria L Garcia

**United States Bankruptcy Court
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11:00 AM

6:21-10421 Angelina Vasquez

Chapter 7

#4.00 Trustee's Final Report and Applications for Compensation

EH__

Docket 43

Tentative Ruling:

1/12/2022

Service: Proper

Opposition: None

The application for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 672.00

Trustee Expenses: \$ 33.44

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Angelina Vasquez

Represented By
Gary S Saunders

Trustee(s):

Karl T Anderson (TR)

Pro Se

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11:00 AM

6:21-10593 Robert Paul Shultz

Chapter 7

#5.00 Notice of Trustee's Final Report and Applications for Compensation

EH__

[Tele. appr. Arturo Cisneros, chapter 7 Trustee]

Docket 48

Tentative Ruling:

1/12/2021

Service: Proper

Opposition: None

The application for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 2,350

Trustee Expenses: \$ 121.81

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

Party Information

Debtor(s):

Robert Paul Shultz

Represented By

Robert B Rosenstein

Trustee(s):

Arturo Cisneros (TR)

Pro Se

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11:00 AM

6:21-11230 Qun Wang

Chapter 7

#6.00 Debtor's Motion to void trustee's deed upon sale

EH__

Docket 73

***** VACATED *** REASON: CONTINUED TO 1/26/22 BY ORDER
ENTERED 1/6/22**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Qun Wang

Represented By
Jianmin Zhou

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
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2:00 PM

6:20-15054 Luis Alberto Pineda-Mata

Chapter 7

Adv#: 6:21-01126 Daff (TR) v. Pineda

#7.00 Status Conference RE: [1] Adversary case 6:21-ap-01126. Complaint by Charles W. Daff (TR) against Rosa A. Pineda. (\$350.00 Fee Charge To Estate). (Attachments: # 1 Adversary Proceeding Cover Sheet) Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)), (14 (Recovery of money/property - other)), (91 (Declaratory judgment)), (02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)))

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 3/16/22 BY ORDER
ENTERED 1/10/22**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luis Alberto Pineda-Mata

Represented By
Christopher J Lauria

Defendant(s):

Rosa A. Pineda

Pro Se

Plaintiff(s):

Charles W. Daff (TR)

Represented By
Chad V Haes
Tinho Mang
D Edward Hays

Trustee(s):

Charles W Daff (TR)

Represented By
Chad V Haes
Tinho Mang

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Luis Alberto Pineda-Mata

D Edward Hays

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6:20-15054 Luis Alberto Pineda-Mata

Chapter 7

#8.00 CONT. Notice of Objection and Motion to Extend Time to File Additional Evidence in Support of Objection to Debtor's Claimed Homestead Exemption, with Proof of Service
(Motion filed 3/24/21)

(Holding date)

From: 5/5/21, 8/11/21, 10/13/21, 12/8/21

EH__

Docket 30

***** VACATED *** REASON: CONTINUED TO 3/16/22 BY ORDER
ENTERED 1/10/22**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luis Alberto Pineda-Mata

Represented By
Christopher J Lauria

Movant(s):

Charles W Daff (TR)

Represented By
Chad V Haes
Tinho Mang
D Edward Hays

Trustee(s):

Charles W Daff (TR)

Represented By
Chad V Haes
Tinho Mang
D Edward Hays

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6:20-17826 Raman Enterprises LLC, a Nevada corporation

Chapter 11

Adv#: 6:21-01070 Raman Enterprises LLC, a Nevada corporation v. Doshi et al

#9.00 CONT. Status Conference RE: [1] Adversary case 6:21-ap-01070. Complaint by Raman Enterprises LLC, a Nevada corporation against American Lending, Inc., Arvind Doshi, Chandrika A Doshi. (\$350.00 Fee Charge To Estate). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)), (21 (Validity, priority or extent of lien or other interest in property))

From: 8/18/21, 10/20/21

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 5/18/22 BY ORDER
ENTERED 1/3/22**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Raman Enterprises LLC, a Nevada

Represented By
Donald W Reid

Defendant(s):

Arvind Doshi

Pro Se

Chandrika A Doshi

Pro Se

American Lending, Inc.

Pro Se

Plaintiff(s):

Raman Enterprises LLC, a Nevada

Represented By
Donald W Reid

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6:21-11005 Brent Anthony Buckner

Chapter 7

Adv#: 6:21-01069 Skeffington et al v. Buckner

#10.00 CONT Status Conference RE: [1] Adversary case 6:21-ap-01069. Complaint by William Skeffington, Laurie Skeffington against Brent Anthony Buckner. fraud as fiduciary, embezzlement, larceny)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)),(91 (Declaratory judgment)

From: 8/4/21, 8/11/21, 11/10/21

EH__

[Tele. appr. Brent Buckner, Defendant]

[Tele. appr. Scott Williams, rep. Plaintiffs]

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Brent Anthony Buckner

Represented By
Michael R Totaro

Defendant(s):

Brent Anthony Buckner

Represented By
Candice Candice Bryner

Plaintiff(s):

William Skeffington

Represented By
J Scott Williams

Laurie Skeffington

Represented By
J Scott Williams

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CONT... Brent Anthony Buckner

Chapter 7

Trustee(s):

Larry D Simons (TR)

Pro Se

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6:21-13324 Howard Edward Terrell, Jr.

Chapter 7

#11.00 CONT. Motion to Dismiss case with a bar to refiling or motion for extension of time to object to entry of discharge and deadline to file a nondischargeability complaint (Motion filed 9/21/21)

From: 11/3/21, 12/1/21

EH__

Docket 24

Tentative Ruling:

11/03/2021

BACKGROUND

On June 17, 2021 (the "Petition Date"), Howard Edward Terrell, Jr. ("Debtor") filed his petition for Chapter 7 relief. Debtor had two previous Chapter 7 petitions, one dismissed on August 26, 2019 and one that was discharged on March 11, 2010. Also, Debtor had three previous Chapter 13 petitions, one dismissed on January 25, 2018, one dismissed on April 15, 2021, and one dismissed for failure to file information on January 27, 2021.

The deadline to file a motion to object to discharge was September 20, 2021. On September 20, 2021, at 11:56 pm, CA Home Buyers 247, LLC ("Creditor") filed an incomplete pleading titled "Motion to Dismiss Case with a Re-Filing Bar or Motion for Extension of Time to Object to entry of Discharge and Deadline to File a Nondischargeability Complaint" ("Incomplete Pleading").

On September 21, 2021, at 2:01 am, again, Creditor filed a complete Motion to Dismiss Case with a Re-Filing Bar or Motion for Extension of Time to Object to entry of Discharge and Deadline to File a Nondischargeability Complaint ("Motion"). Service was proper. On October 15, 2021, Debtor filed an opposition stating Creditor failed to

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CONT... **Howard Edward Terrell, Jr.**
timely file the motion.

Chapter 7

DISCUSSION

FED. R. BANKR. P. Rule 1017(e)(1) states:

Except as otherwise provided in § 704(b)(2), a motion to dismiss a case for abuse under § 707(b) or (c) may be filed only within 60 days after the first date set for the meeting of creditors under § 341(a), unless, on request filed before the time has expired, the court for cause extends the time for filing the motion to dismiss.

FED. R. BANKR. P. Rule 4004(a) states:

In a chapter 7 case, a complaint, or a motion under § 727(a)(8) or (9) of the Code, objecting to the debtor's discharge shall be filed no later than 60 days after the first date set for the meeting of creditors under § 341(a). . . . At least 28 days' notice of the time so fixed shall be given to the United States trustee and all creditors as provided in Rule 2002(f) and (k) and to the trustee and the trustee's attorney.

FED. R. BANKR. P. Rule 4004(b) states:

(1) On motion of any party in interest, after notice and hearing, the court may for cause extend the time to object to discharge. Except as provided in subdivision (b)(2), the motion shall be filed before the time has expired.

(2) A motion to extend the time to object to discharge may be filed after the time for objection has expired and before discharge is granted if (A) the objection is based on facts that, if learned after the discharge, would provide a basis for revocation under § 727(d) of the Code, and (B) the movant did not have knowledge of those facts in time to permit an objection. The motion shall be filed promptly after the movant discovers the facts on which the objection is based.

FED. R. BANKR. P. 4007(c) provides:

Except as otherwise provided in subdivision (d), a complaint to determine the dischargeability of a debt under § 523(c) [11 U.S.C. § 523(c)] shall be filed no later than 60 days after the first date set for the meeting of creditors under § 341(a) [11 U.S.C. §

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341(a)]. The court shall give all creditors no less than 30 days' notice of the time so fixed in the manner provided in Rule 2002. On motion of a party in interest, after hearing on notice, the court may for cause extend the time fixed under this subdivision. The motion shall be filed before the time has expired.

There are two prongs that must be met to satisfy Rule 4004(b) and Rule 4007(c) before an extension of time may be granted: (1) the motion must be filed before the time has expired; and (2) there must be "cause" for an extension. *See In re Abundis*, Case No.: 2:20-bk-18276-ER, 2021 Bankr. LEXIS 1671, at *2-3 (Bankr. C.D. Cal. Mar. 8, 2021). The Court has discretion to analyze cause sufficient to extend the deadline for a creditor's time to object to entry of discharge on a case-by-case basis. *In re Farhid*, 171 B.R. 94, 96 (Bankr. N.D. Cal. 1994).

Numerous rules govern the sufficiency of pleadings. For example, FED. R. BANKR. P. 9011 provides in pertinent part:

(a) Signature. Every petition, pleading, written motion, and other paper, except a list, schedule, or statement, or amendments thereto, shall be signed by at least one attorney of record in the attorney's individual name. . . .

(b) Representations to the Court. By presenting to the court (whether by signing, filing, submitting, or later advocating) a petition, pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,—

(2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery[.]

Here, the deadline to file a motion to object to discharge was September 20, 2021, which is 60 days from July 22, 2021, the first date set for the meeting of creditors under § 341(a). Creditor filed the Incomplete Pleading on September 20, 2021, at 11:56 pm, with less than one page of legal analysis, no signature, and no proof of service [Dkt. No.

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23]. Then, on September 21, 2021, at 2:01 am, Creditor filed the Motion with five more pages of legal analysis, signature, and proof of service. [Dkt. No. 24].

Without any case law from Creditor that an incomplete pleading with no signature and no proof of service can be considered a valid request for the purpose of FRBP 1017(e)(1) and 4004(a), the Court is unable to determine that the Incomplete Pleading is a timely request to extend the deadline. Nor did Debtor analyze the issue.

TENTATIVE RULING

Based on the foregoing, the Court is inclined to continue the hearing for supplemental briefing.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Howard Edward Terrell Jr.

Represented By
Brian J Soo-Hoo

Movant(s):

CA HOME BUYERS 247, LLC

Represented By
Matthew Abbasi

Trustee(s):

Arturo Cisneros (TR)

Pro Se

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6:21-13324 Howard Edward Terrell, Jr.

Chapter 7

#12.00 CONT. Motion to Withdraw as Attorney
(Motion filed 12/9/21)

From: 1/5/22

EH__

Docket 41

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Howard Edward Terrell Jr.

Represented By
Brian J Soo-Hoo

Movant(s):

Howard Edward Terrell Jr.

Represented By
Brian J Soo-Hoo

Trustee(s):

Arturo Cisneros (TR)

Pro Se